

**78B-3-603 Liability imposed and limitations -- Defenses -- Limitations on damages.**

- (1) Except as provided in this section, any person who owns, holds under license, transports, ships, stores, or disposes of nuclear material is liable, without regard to the conduct of any other person, for harm from nuclear incidents arising in connection with or resulting from such ownership, transportation, shipping, storage, or disposal.
- (2) Except as provided in this section, any person who owns, designs, constructs, operates, or maintains facilities, structures, vehicles, or equipment used for handling, transportation, shipment, storage, or disposal of nuclear material is liable, without regard to the conduct of any other person, for harm from nuclear incidents arising in connection with or resulting from such ownership, design, construction, operation, and maintenance.
- (3) Liability established by this part shall only be imposed if a court of competent jurisdiction finds that:
  - (a) the nuclear incident which is the basis for the suit is covered by existing financial protection undertaken pursuant to 42 U.S.C. Sec. 2210; and
  - (b) a person who is liable under this part is a person indemnified as defined in 42 U.S.C. Sec. 2014.
- (4) Immunity of the state, its political subdivisions, or the agencies of either from suit are only waived with respect to a suit arising from a nuclear incident:
  - (a) in accordance with Title 63G, Chapter 7, Governmental Immunity Act of Utah; or
  - (b) when brought by a person suffering harm.
- (5) The conduct of the person suffering harm is not a defense to liability, except that this section does not preclude any defense based on:
  - (a) the claimant's knowing failure to mitigate damages related to any injury or damage to the claimant or the claimant's property; or
  - (b) an incident involving nuclear material that is knowingly and wrongfully caused by the claimant.
- (6) A person may not collect punitive or exemplary damages under this part.

Renumbered and Amended by Chapter 3, 2008 General Session